IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev. No.2079 of 2006
Date of Decision:- 03.04.2007

Ajit Singh ....Petitioner(s)

through
Mr.S.S.Japra, Advocate

vs.

State of Punjab ....Respondent(s)

through
Mr.Rajesh Bhardwaj, DAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1.Whether Reporters of the local papers may be allowed to see the judgment?
2.To be referred to the Reporters or not?
3.Whether the judgment should be reported in the Digest?

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SURYA KANT, J.

This revision petition has been filed against the order dated 27.3.2006 passed by the learned Judicial Magistrate, Ist Class, Jalandhar whereby the cross-examination of three witnesses has been closed and ordered to be nil.

The petitioner is facing trial in case arising out of F.I.R.No.82 dated 29.7.2003 under Sections 279/337/338/427 IPC registered at Police Station Kartarpur, District Jalandhar.

The prosecution examined two witnesses, namely, Jaswant Singh and Kanwaljit Singh. However, their cross-examination was deferred on the request made by the counsel representing the petitioner-accused. On the adjourned date, one more prosecution witness, namely, Varinder Kumar was examined. The examination-in-chief of the said witness too was recorded. The Court, on a request made by the petitioner in person, kept on

waiting for his counsel so that he could come and cross-examine all the three witnesses. The learned counsel, who appears to have taken the Court for a ride, turned up at 2.30 P.M. and again sought an adjournment to cross-examine the witnesses. He was apprised of the fact that last time adjournment was granted on the condition that no further adjournment shall be granted for cross-examination of the witnesses and if they are not cross-examined, the same shall be treated as nil.

As the impugned order reveals, instead of making out a case for grant of further adjournment and/or persuading the Court to show leniency, the counsel for the petitioner left the Court after telling that "the cross examination of the witnesses may be treated as nil" and that he will move an application under Section 311 Cr.P.C., if the need would arise. In these circumstances, the learned Judicial Magistrate, Ist Class, Jalandhar, closed the cross-examination of the witnesses and ordered the same to be nil.

From the above resume of facts, no exception can be taken to the view formed by the learned Judicial Magistrate. He has followed the right course which ought to have been adhered to.

Learned counsel for the petitioner, however, submits that as a result of the irresponsible, unprofessional and unethical conduct of the counsel, the petitioner may not be made to suffer.

Mr.Rajesh Bhardwaj, learned DAG, Punjab, states that the case is now fixed before the learned trial Magistrate on 22.5.2007 for further prosecution evidence.

After hearing learned counsel for the parties, though it appears to be in the interest of administration of criminal justice to give one more and the last opportunity to the petitioner to cross-examine the prosecution

witnesses whose examination-in-chief has already been recorded; however, not without facing the penal consequences as the petitioner and his counsel appear to have taken the Court's time for granted.

Consequently, this revision petition is partly allowed to the extent that the three prosecution witnesses, namely, S/Sh. Jaswant Singh, Kanwaljit Singh and Varinder Kumar are directed to be produced on the date fixed i.e. 22.5.2007 for their cross-examination by the petitioner which shall be the last opportunity for the aforesaid purpose and subject to the further condition that the petitioner shall pay the costs of Rs.5,000/-. The petitioner is directed to deposit the amount of costs with the District Bar Association at Jalandhar and shall be permitted to cross-examine the witnesses only on production of the receipt thereof.

Disposed of.

April 03, 2007 **(SURYA KANT)**
poonam **JUDGE**